

Department of the Navy, DoD

§ 775.9

(1) Ninety days after publication of the notice of availability for a draft environmental impact statement (DEIS). Draft statements shall be available to the public for 15 days prior to any public hearing on the DEIS (40 CFR 1506.6(c)(2)).

(2) Thirty days after publication of the notice of availability for a final environmental impact statement (FEIS). If the FEIS is available to the public within ninety days from the availability of the DEIS, the minimum thirty day period and the minimum ninety day period may run concurrently. However, not less than 45 days from publication of notice of filing shall be allowed for public comment on draft statements prior to filing of the FEIS (40 CFR 1506.10(c)).

§ 775.8 Scoping.

As soon as practicable after the decision to prepare an EIS is made, an early and open process called "scoping" shall be used to determine the scope of issues to be addressed and to identify the significant issues to be analyzed in depth related to the proposed action (40 CFR 1501.7). This process also serves to deemphasize insignificant issues, narrowing the scope of the EIS process accordingly (40 CFR 1500.4(g)). Scoping results in the identification by the proponent of the range of actions, alternatives, and impacts to be considered in the EIS (40 CFR 1508.25). For any action, this scope may depend on the relationship of the proposed action to other existing environmental documentation.

§ 775.9 Documentation and analysis.

(a) Environmental documentation and analyses required by this rule should be integrated as much as practicable with any environmental studies, surveys and impact analyses required by other environmental review laws and executive orders (40 CFR 1502.25). When a cost-benefit analysis has been prepared in conjunction with an action which also requires a NEPA analysis, the cost-benefit analysis shall be integrated into the environmental documentation.

(b) CEQ regulations encourage the use of tiering whenever appropriate to eliminate repetitive discussions of the

same issues and to focus on the actual issues ripe for discussion at each level of environmental review (40 CFR 1502.20). Tiering is accomplished through the preparation of a broad programmatic environmental impact statement discussing the impacts of a wide ranging or long term stepped program followed by narrower statements or environmental assessments concentrating solely on issues specific to the analysis subsequently prepared (40 CFR 1508.28).

(1) *Appropriate use of tiering:* Tiering is appropriate when it helps the lead agency to focus on issues which are ripe for decision and exclude from consideration issues already decided or not yet ripe. (40 CFR 1508.28(b).) The sequence of statements or analyses is:

(i) From a broad program, plan, or policy environmental impact statement (not necessarily site specific) to a subordinate/smaller scope program, plan, or policy statement or analysis (usually site specific) (40 CFR 1508.28(a)).

(ii) From an environmental impact statement on a specific action at an early stage (such as need and site selection) to a supplement (which is preferred) or a subsequent statement or analysis at a later stage (such as environmental mitigation) (40 CFR 1508.28(b)).

(iii) In addition to the discussion required by these regulations for inclusion in environmental impact statements, the programmatic environmental impact statement shall also discuss:

(A) A description of the subsequent stages or sites that may ultimately be proposed in as much detail as presently possible;

(B) All of the implementing factors of the program that can be ascertained at the time of impact statement preparation;

(C) All of the environmental impacts that will result from establishment of the overall program itself that will be similar for subsequent stages or sites as further implementation plans are proposed; and

(D) All of the appropriate mitigation measures that will be similarly proposed for subsequent stages or sites.

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(iv) The analytical document used for stage or site specific analysis subsequent to the programmatic environmental impact statement shall also be an environmental impact statement when the subsequent tier itself may have a significant impact on the quality of the human environment or when an impact statement is otherwise required. Otherwise, it is appropriate to document the tiered analysis with an environmental assessment to fully assess the need for further documentation or whether a FONSI would be appropriate.

(2) [Reserved]

§ 775.10 Relations with state, local and regional agencies.

Close and harmonious planning relations with local and regional agencies and planning commissions of adjacent cities, counties, and states, for co-operation and resolution of mutual land use and environment-related problems should be established. Additional coordination may be obtained from state and area-wide planning and development "clearinghouses". These are agencies which have been established pursuant to Executive Order 12372 of July 14, 1982 (3 CFR, 1982 Comp., p. 197). The clearinghouses serve a review and coordination function for Federal activities and the proponent may gain insights on other agencies' approaches to environmental assessments, surveys, and studies in relation to any current proposal. The clearinghouses would also be able to assist in identifying possible participants in scoping procedures for projects requiring an EIS.

§ 775.11 Public participation.

The importance of public participation (40 CFR 1501.4(b)) in preparing environmental assessments is clearly recognized and it is recommended that commands proposing an action develop a plan to ensure appropriate communication with affected and interested parties. The command Public Affairs Office can provide assistance with developing and implementing this plan. In determining the extent to which public participation is practicable, the following are among the factors to be weighed by the command:

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(a) The magnitude of the environmental considerations associated with the proposed action;

(b) The extent of anticipated public interest; and

(c) Any relevant questions of national security and classification.

§ 775.12 Delegation of authority.

(a) The ASN (I&E) may delegate his/her responsibilities under this instruction for review, approval and/or signature of EISs and RODs to appropriate Executive Schedule/Senior Executive Service civilians or flag/general officers. ASN (I&E), CNO, and CMC may delegate all other responsibilities assigned in this instruction as deemed appropriate.

(b) The ASN (RD&A) delegation of authority for approval and signature of documents under NEPA is contained in SECNAV Instruction 5000.2 series, which sets out policies and procedures for acquisition programs.

(c) Previously authorized delegations of authority are continued until revised or withdrawn.

[69 FR 8112, Feb. 23, 2004]

PART 776—PROFESSIONAL CONDUCT OF ATTORNEYS PRACTICING UNDER THE COGNIZANCE AND SUPERVISION OF THE JUDGE ADVOCATE GENERAL

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